



U.S. Department of Justice

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US EPA RECORDS CENTER REGION 5



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Washington, D.C. 20530

February 10, 1983

Edward J. Schwartzbauer  
Dorsey & Whitney  
2300 First Bank Place East  
Minneapolis, Minnesota 55402

Dear Ed:

Re: United States v. Reilly Tar & Chemical  
Corp., Civil No. 4-80-469 (D. Minn.)

I must take this opportunity to respond to your letter of December 17, 1982, requesting a further delay in the expenditure of initial monies provided to the State of Minnesota under the cooperative agreement. As representatives of the United States and the State informed you and your client at our August 24, 1982 meeting, the primary focus of the initial activities to be undertaken with funds provided by cooperative agreement would be to investigate the effectiveness of various alternative remedies to the St. Louis Park groundwater problem. We believe that this process of evaluating various alternatives is appropriate under CERCLA to determine which remedies will be effective and which will be cost-effective. Without undertaking an evaluation of alternatives, we could not be sufficiently knowledgeable to make an informed decision about any proposed remedy, including those which your client may present.

At our August 24, 1982 meeting, we reiterated an invitation made for the first time two years ago to Reilly Tar to present a proposed solution for our consideration. In order to better enable Reilly Tar to formulate its proposal, Reilly representatives have been invited to participate in milestone meetings to discuss water treatability. We have also provided Reilly's consultants with extensive documentation for the chemical analysis and treatability testing of groundwater, and much additional information. We are endeavoring to answer your further requests for information. You have not yet provided us with the proposal which was originally due on December 31, 1982.

Under the cooperative agreement, the scope of work to be done in the initial stages of operations is the same

as we proposed at our August 24, 1982 meeting. We are ready to progress on a sensible schedule to complete this work. It is important that this investigation work go forward to formulate a proposal to protect the public health, especially since we have not yet received a proposal from Reilly. We believe now, as then, that this work is necessary for us to make a full assessment of alternatives and to make an informed selection in choosing an effective and cost-effective solution to the drinking water problem and associated health and environmental problems at the site, in accordance with the National Contingency Plan. See 40 C.F.R. §300.68, as published at 47 Fed. Reg. 31180, 31216-217 (July 16, 1982). This work becomes even more important now that we understand that ERT, Reilly's consultants, has discovered problems with the proposal which it was planning to present on Reilly's behalf and has begun to rethink its proposal. Without conducting this further work, and spending the necessary funds, we could not be in a position to discover problems in proposed remedies, such as the apparent problem found in the remedy under consideration by ERT. Accordingly, the expenditures of initial funds is essential if we are to move forward with the necessary work to make an informed evaluation of all proposed remedies, including any proposal made by Reilly Tar, when it is finally received.

We hope to see your proposal at the end of the this month.

Sincerely,

Assistant Attorney General  
Land and Natural Resources Division

By:



David Hird  
Attorney, Environmental Enforcement  
Section

cc: Stephen Shakman, Esquire  
Allen W. Hinderacker, Esquire  
Robert Leininger, Esquire  
Mr. Paul Bitter  
Mr. Michael Hansel